

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on February 19, 1999 at 8:00 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: Sen. Mike Halligan (D)

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 505, SB 506, SB 507,
2/16/1999
Executive Action: SB 198, SB 403, SB 402, SB
450, SB 451, SB 472, SB 476,
SB 503, SB 505, SB 506, SB 507

HEARING ON SB 505, SB 506, SB 507

Sponsor: SEN. DUANE GRIMES, SD 20, Clancy

Proponents: Toohe Welker, Director of Sanders County Coalition
for Families
Ward Shanahan, State Bar of Montana

Penny McPherson, Rosebud County Victim/Witness
Betty Waddell, Montana Association of Churches
Matthew Dale, Friendship Center
Barb Byle, Custer Network Against Domestic Abuse
Neil Haight, Montana Legal Services
Sharon Hoff, Montana Catholic Conference

Opponents: None

Opening Statement by Sponsor:

SEN. DUANE GRIMES, SD 20, Clancy, introduced SB 505, SB 506 and SB 507. He remarked that this Committee has been very considerate of the persons using our domestic abuse shelters across the state. By giving spouses a safety net, we are able to take away the hold of their abuser. Since many of these people who are on the run are impoverished, they need special help with concerns such as funds needed for the parenting plan.

Proponents' Testimony:

Tooe Welker, Director of Sanders County Coalition for Families, explained that in her county there are two attorneys who handle domestic divorces. One is the public defender and he is usually already working with the perpetrator. This leaves these individuals with one attorney and this attorney still needs to earn a living. Advocates help with Orders of Protection Hearings. However, when an advocate is faced with an attorney, there is an uneven balance. Over the last few years, a lot more people who batter their spouses are showing up at court for Order of Protection Hearings with an attorney. This leaves the victim in a weak spot. Victims have lost custody of their children simply because they could not afford an attorney. Written testimony of **Ms. Welker, EXHIBIT(jus41a01)**.

Ward Shanahan, State Bar of Montana, rose in support of the bills. He remarked that in a nation that has equal justice under law as one of its main objects, a law as a social service is properly funded by the government.

Penny McPherson, Rosebud County Victim/Witness, explained that they work under the county attorney's office to help victims of criminal aspects. They help fill out orders of protection. They can offer no legal assistance. Being in Forsyth, they are too far from Glendive and from Billings in terms of pro bono help. There are two private attorneys in Forsyth. They are also the public defenders. They do not have the time nor the inclination to provide pro bono services. In the Colstrip area, the male usually is the one with the job as well as the money. Many times

the women have not only lost everything they have, but they also end up losing their children.

Betty Waddell, Montana Association of Churches, rose in support of the bills. Laws and policies need to be strengthened to address the need for victim support in domestic violence instances. The most violent place in America is in our homes. Domestic violence occurs every 15 seconds in this country and in 1992 the Surgeon General cited violence as the leading cause of injury for women aged 15 to 44. More than 50% of the women murdered in the United States are killed by their partner or ex-partner. While we can sympathize with victims, this will not mend their broken bones or redeem their lives.

Matthew Dale, Friendship Center, related that over the course of a year they will serve approximately 350 women. Most of these women are poor and have children. They have increased their services to meet the needs of those women and children up to the area of legal assistance. They have an attorney who provides pro bono assistance. They work very closely with Legal Services. Unfortunately, they are still not able to meet the needs. They are very much in support of this bill which will give them an additional fund to take advantage of this gap in services. This bill will create a fund that will allow access to the kind of legal assistance that women need and they are unable to provide.

Barb Byle, Custer Network Against Domestic Abuse, explained that they cover Garfield, Powder River, Fallon, Carter, and Custer Counties. There is an incredible need for assisting victims in civil litigation. She raised a concern about additional workflow to the district court clerks. When a victim seeks civil litigation in eastern Montana, there is nothing out there for them. Garfield County has one attorney and he is related to approximately half of the people in the county. Carter County and Powder River County also have only one attorney each. Victims in these counties are forced to go to Glendive or Miles City. The controller of the relationship usually also controls the funds. The retainer for an attorney can be \$750 to \$2,000. It doesn't take long to use up \$750 at \$105 to \$120 an hour.

They have utilized the services of Montana Legal Services, Vista Americorp. The attorneys from Montana Legal Services in Billings cannot travel to the southeastern counties. The Vista Americorp attorneys are there for approximately 11 months. Training usually takes two months. They have gone three to four months without an attorney since it is difficult to recruit people to live in eastern Montana.

Neil Haight, Montana Legal Services, explained that the bill has been brought on their behalf and will provide a fund to support a service. This is not an appropriation to Montana Legal Services.

According to the statistics from the Domestic Violence Program at the Department of Public Health and Human Services, they deal with approximately 1,000 cases per month. About 266 cases per month receive service through a shelter or safe house. Both the victim witnesses and domestic violence advocates do an excellent job handling the emergency cases and initial orders of protection they receive. Following that, the victim is somewhat stranded. There is no resolution of parenting, visitation, etc.

It is his understanding that approximately one-half of the orders of protection are contested and in one-fourth of the cases the person who is contesting is represented by an attorney. A victim is in no shape to deal with an abuser and, much less, an opposing attorney. This involves the interest of the children as well as the interest of the victim.

Sharon Hoff, Montana Catholic Conference, rose in support of the bills.

Opponents' Testimony: None

{Tape : 1; Side : A; Approx. Time Counter : 8.25}

Questions from Committee Members and Response:

CHAIRMAN GROSFIELD questioned the amount of funds which would be involved. **Mr. Haight** responded that the amount should be in the neighborhood of \$200,000 per year.

CHAIRMAN GROSFIELD remarked that for a dissolution of marriage the fee would be directly related to the use being proposed. He questioned whether the fee would be charged to every action that came before the court. **Mary Phippen, Montana Association of Clerks of District Court**, conveyed that this would include any civil action other than a petition for a legal separation, a petition for dissolution of marriage, or a petition for a contested amendment of the final parenting plan.

CHAIRMAN GROSFIELD maintained that the fees charged are confusing. He questioned whether there were numerous complaints regarding the \$80 fee. **Ms. Phippen** remarked that the clerks have been chastised for the complicated fee schedule. Most of the requests for fees have been from other state agencies or programs that needed funding.

CHAIRMAN GROSFIELD questioned the amount of funds needed to adequately cover the state for these services. **Mr. Haight** speculated that at least 10 lawyers were needed.

CHAIRMAN GROSFIELD questioned how the funds would be distributed. **Ms. Byle** remarked that if one-fourth of the money could be used to supply one attorney in the southeastern part of Montana she would probably be begging for more money for assistance in the northeastern part of the state as well.

SEN. GRIMES believed the funds would be appropriated on a first-come, first-serve, basis.

SEN. MCNUTT asked if the fund would impact the amount of pro bono work now available. **Mr. Shanahan** responded that there is more work than they can handle. At the present time, the district courts have set up a program with the State Bar to handle distribution of pro bono cases. This bill is for the severe cases that involve domestic violence. He is currently doing pro bono work for a woman whose husband is in prison and has had his sentence extended for another 15 years. The domestic violence cases do require special considerations. There is a gap that needs to be filled. When a request for a proposal is made, they will try to distribute the work around the state. Montana Legal Services is the only organization that has a handle on what is needed. The Bar Association Lawyer Referral Program refers the cases to them. They are doing the best they can but cannot force people to handle these cases.

SEN. MCNUTT remarked that eastern Montana has less lawyers than urban areas. He would hate to see the fund melded into the metropolitan areas with no funds left for the rural areas. **Mr. Shanahan** added that travel is a large expense in Montana.

Closing by Sponsor:

SEN. GRIMES closed on the bills.

{Tape : 1; Side : A; Approx. Time Counter : 8.38}

EXECUTIVE ACTION ON SB 503

Motion/Vote: **SEN. HOLDEN** moved that **SB 503 BE AMENDED** - **SB050301.av1, EXHIBIT(jus41a02)**. **Vote:** Motion **carried 5-0** with **Doherty, Grimes, and Grosfield** being excused from the meeting.

Discussion:

SEN. HOLDEN questioned the situation in the federal court system when the jury found that the person should be sentenced to death. Would the judge also need to agree or would he follow the will of the jury? **John Connor, Department of Justice**, remarked that he did not know. He added that the federal system does not use the death penalty very often.

SEN. HOLDEN added that if the jury listened to the evidence and decided that the death sentence is appropriate, the judge should not be able to trump the jury's decision. He suggested that Montana's legislation be structured the same way as the federal court system.

CHAIRMAN GROSFIELD remarked that the bill states that the jury must make the recommendation before the judge can act. It does not state that the judge must take the jury's recommendation.

Motion: **SEN. BARTLETT** moved that **SB 503 DO PASS AS AMENDED.**

Discussion:

CHAIRMAN GROSFIELD remarked that this would not increase or decrease the use of the death penalty because juries would be predisposed either to impose or not impose the penalty. He did believe that juries do reflect the moral conscious of the community.

Vote: Motion **carried 6-1 with Jabs voting no and Grimes and Doherty** being excused.

{Tape : 1; Side : B; Approx. Time Counter : 8.48}

EXECUTIVE ACTION ON SB 450 and SB 451

Motion: **SEN. HOLDEN** moved that **SB 450 BE TABLED.**

Discussion:

SEN. MCNUTT remarked that the requirements of the bill would be difficult to accomplish given the number of notary publics in this state.

SEN. BARTLETT pointed out that certain elements of the bill are valid and workable. The notary statutes need to be reviewed with input from notaries around the state. There is a need for training of notaries. Requirements to become a notary are very lax. A person seeking to become a notary, needs to purchase a

notary bond and then submits an application to the Secretary of State's Office. She suggested that a letter could be sent to the Secretary of State that the Committee was not prepared to pass this bill but would like them to undertake an examination of the statutes and bring a well prepared revision to the next legislative session.

SEN. MCNUTT remarked that instructions are sent to persons who are newly appointed notary publics. These instructions are broad but do explain certain procedures.

Vote: Motion **carried 7-0.**

Motion/Vote: **SEN. HOLDEN** moved that **HB 451 BE TABLED. Motion carried 7-0.**

{Tape : 1; Side : B; Approx. Time Counter : 9.00}

EXECUTIVE ACTION ON SB 505

Motion: **SEN. MCNUTT** moved that **SB 505 DO PASS.**

Discussion:

Pat Chenovick, Supreme Court Administrator, explained that they prepared the fiscal note for the bill. The assumptions made were that the fee would apply to the majority of filings in district court. The excepted filings would be a minority of less than 1%. The collections should amount to \$270,000 to \$300,000 annually, based on the 1998 caseload of about 34,000 case filings. This did not take into consideration the individuals that would not be able to pay the filing fee. The money would be disbursed in much the same manner as the Criminal Reimbursement Program.

The preferred method for distributing the funds would be to pay, on the first initial contact, 70% of those costs and reserve the 30% to make sure that there were enough funds to pay the majority of claims. Another method would be to pay 100% on a first come, first served basis or need in certain areas.

CHAIRMAN GROSFIELD questioned whether this would be set up by a rule making process. **Mr. Chenovick** responded that he would pattern this program after the District Court Criminal Reimbursement Program which already has established policies. If suggestions were received, they would be sent to the Court for adoption of formal rules.

SEN. GRIMES maintained that the intent of the legislation is that it be used for the extreme cases involving domestic violence and impoverishment.

He added that on the last page of SB 506, he wanted to make sure that if this is voted on by the public, the language "the filing fee tax shall be increased annually by \$10" needed to be addressed.

CHAIRMAN GROSFIELD explained that the language in CI-75 states that the word "annually" must be present. This is confusing and raises a lot of questions.

He further remarked that the language on page 7 of the bill is not clear that the distribution of the funds would go only to non-profit organizations that ordinarily render or finance legal services. An individual victim might appeal directly to the Supreme Court Administrator to cover their legal fees.

He further questioned whether there are non-profit organizations that cover the entire state.

Mr. Haight clarified that their program is a statewide program. Another program that can operate on a statewide basis is the People's Law Center in Butte. Non-legal organizations that do operate on a statewide basis could also be an applicant.

SEN. HOLDEN understood that any domestic violence victim should be able to use this fund and it would not be necessary to have that person contact a non-profit organization. In rural areas, there may not be a network of non-profit organizations.

CHAIRMAN GROSFIELD inquired about how the Supreme Court Administrator would respond to a direct request from a practicing attorney for money from the fund. **Mr. Chenovick** explained that if the attorney had performed these services for an individual and there was money available, he would be hard pressed to tell the attorney that the money is reserved for an organization. By rules they could dictate the hourly rate that would be paid for the service. Investigative attorneys may have a normal rate of \$60 to \$100 an hour, but they only pay \$35 an hour for that service.

SEN. HOLDEN maintained that it would be necessary for supporting documentation to show that the person is indigent. **Mr. Chenovick** affirmed. The judge also signs off on the reimbursement request.

SEN. BARTLETT questioned whether it should be specified that legal representation is the priority and only if money is available would it go to alternative dispute resolutions. Are the two equally important?

{Tape : 2; Side : A; Approx. Time Counter : 9.21}

SEN. GRIMES preferred that the language not be changed. If changes were necessary, they could be made next session.

Motion/Vote: **SEN. HOLDEN** moved that **SB 505 BE AMENDED BY ADDING THE WORDS "AND ACCOUNTABILITY" AFTER THE WORD "DISTRIBUTION" ON PAGE 7, LINE 4.** Motion carried 8-0.

SEN. MCNUTT withdrew his earlier motion.

Motion/Vote: **SEN. MCNUTT** moved that **SB 505 DO PASS AS AMENDED.** Motion carried unanimously - 8-0.

EXECUTIVE ACTION ON SB 506

Motion/Vote: **SEN. MCNUTT** moved that **SB 506 BE AMENDED BY STRIKING THE WORD "COVER" ON PAGE 6, LINES 24 AND 26, AND INSERTING THE WORDS "PROVIDE FOR".** Motion carried 8-0.

Motion/Vote: **SEN. GRIMES** moved that **HB 506 DO PASS AS AMENDED.** Motion carried unanimously - 8-0.

EXECUTIVE ACTION ON SB 507

Motion/Vote: **SEN. MCNUTT** moved that **SB 507 BE AMENDED BY STRIKING THE WORD "COVER" ON PAGE 6, LINES 23 AND 25, AND INSERTING THE WORDS "PROVIDE FOR".** Motion carried 8-0.

Motion/Vote: **SEN. GRIMES** moved that **HB 506 DO PASS AS AMENDED.** Motion carried unanimously - 8-0.

{Tape : 2; Side : A; Approx. Time Counter : 9.25}

EXECUTIVE ACTION ON SB 472

Motion: **SEN. HOLDEN** moved that **SB 472 BE AMENDED - SB047201.av1, EXHIBIT(jus41a03), Amendment no. 7.**

Discussion:

SEN. HOLDEN explained that this amendment would identify that the silencer would be registered under federal law.

Vote: Motion carried unanimously - 8-0.

Ms. Lane summarized that the bill, as originally drafted, would have repealed 45-8-305. The amendments would not repeal, but amend, 45-8-305 to remove all subsections of that section except

(2) to leave in that it is presumed that possession or use of a machine gun is for an offensive or aggressive purpose when the machine gun is in the possession of or used by a person who has been convicted of a crime of violence in any court of record, state or federal.

Motion: SEN. MCNUTT moved that **SB 472 BE AMENDED - Remainder of amendments - SB047201.av1.**

Discussion:

SEN. WELLS remarked that the amendment is redundant. Anyone who has been convicted of a crime would not have any way of getting a permit.

SEN. HOLDEN did not see a need to have this language in state statutes due to overriding federal statutes.

CHAIRMAN GROSFIELD questioned whether the term "crime of violence" meant a felony. Ms. Lane remarked that simple assault may not be a felony.

SEN. WELLS added that any crime of violence would be grounds for not receiving a permit.

Ms. Lane pointed out that 45-8-305 explains a presumption of offensive or aggressive purposes. Section 45-8-304, which is not being repealed or amended, creates the crime of possession or use of machine gun for offensive purpose. It states that possession or use of a machine gun for offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in a state penitentiary for a term of not less than 10 years.

Vote: Motion carried 7-1 with Holden voting no.

Motion/Vote: SEN. MCNUTT moved that **SB 472 DO PASS AS AMENDED.**
Motion carried 7-1 with Bishop voting no.

EXECUTIVE ACTION ON SB 403

Discussion:

Ms. Lane explained that amendments SB040301.av1, **EXHIBIT(jus41a04)**, are similar to amendments in HB 590 which deals with background checks on teachers. She added that **Larry Fasbender and Steve Bullock, Department of Justice**, prepared the amendments. Section 2 of the bill is drafted so that publicly funded in-home care service providers must do the background check. It is provided that those who are not publicly funded may

conduct the background check. Amendments no. 2 and 3 amend the two sections. **Mr. Fasbender** raised a concern about the burden on the Department of Justice if they had to do a background check on every person who ever applied for one of these positions. The wording was changed so that lines 24 and 25 of the bill would read that any job applicant to whom the employer is considering offering a position. Amendment no. 3 makes the same amendment on line 30, which is the permissive background checks.

Amendments no. 4 and 5 add requirements for submission of background checks. Amendment no. 4 would amend 44-5-302, which deals with the dissemination of this kind of information and allows dissemination to employers who are requesting these background checks. Amendment no. 5 sets up an account which allows that whatever monies are received for background checks be placed into a special revenue fund account. At fiscal year-end, any excess fees must be deposited to the general fund.

CHAIRMAN GROSFIELD remarked that there is no requirement in the federal law that an applicant must submit his or her fingerprints. If a background check on criminal history is requested and there are fingerprints available in the files of the FBI, they can then process the same. He would like the mandatory submission of fingerprints to be removed from the bill.

On page 2, line 14, the language "fingerprints submitted by the applicant to" should be replaced with "fingerprint records held by".

Ms. Lane related that fingerprint checks involved matching of fingerprints to other fingerprints. It would be necessary to receive the applicant's fingerprints to see if they matched the ones on file with the FBI.

CHAIRMAN GROSFIELD further suggested that the sentence on line 13 and 14 be stricken.

Ms. Lane explained that on page 2, line 11, (b) includes what the check can entail. If "it may include fingerprints" is stricken, she questioned whether the words "at a minimum" on line 11 should also be stricken. Also, Section 3 is an amendment to 44-5-302, which is dissemination of criminal history record information which provides that the Department of Justice may accept fingerprints from (a) and (b) and to disseminate to the persons provided in (a) and (b) information that comes from the fingerprint checks. If the fingerprint provisions are eliminated, there would be no need for the amendments to Section 3 in the bill.

{Tape : 2; Side : B; Approx. Time Counter : 10.00}

Motion/Vote: SEN. MCNUTT moved that SB 403 BE AMENDED. LINES 13 AND 14 SHOULD BE ELIMINATED FROM PAGE 2. ON LINE 11, "AT A MINIMUM" SHOULD BE STRICKEN AND AMENDMENTS NO. 4, 5, 6, AND 7 SHOULD NOT BE MOVED. ALSO, SECTION 3 COULD BE STRICKEN FROM THE BILL. Motion carried unanimously - 8-0.

Motion/Vote: SEN. MCNUTT moved that SB 403 BE AMENDED, AMENDMENT NO. 1. Motion carried unanimously.

Motion/Vote: SEN. JABS moved that SB 403 BE AMENDED, AMENDMENT NOS. 2 AND 3. Motion carried unanimously.

SEN. BARTLETT conveyed that the Department of Justice provided information on the federal legislation, **EXHIBIT(jus41a05)** and **EXHIBIT(jus41a06)**. On page 5 of Mr. Sklar's comments she noted that certain states do not intend to designate any potential qualified entity as such, effectively opting out of the Volunteers and Children's Act. It is the states that act as the gatekeeper by determining what will be considered qualified entities. Qualified entities are those agencies or individuals that the state identifies as being authorized to request the background checks for the purposes specified and authorized in federal law. The bill in no way requires these organizations to conduct the fingerprint checks. It simply provides organizations with the option of requesting the checks if there is no law in place precluding them.

Because records are available at the federal level for these purposes, schools and home health agencies and others who have workers who would be in situations covered by this legislation would fear a lawsuit if they did not check everyone who goes near their building.

It appears that Congress did not realize that this would be the outcome. There is language in the exhibit that suggests that states can put into law a provision that precludes these checks. Some states are considering not naming a qualified entity so there would not be anyone in the state eligible to submit the request for this.

SEN. HOLDEN remarked that he had discussed this item with SEN. MAX BAUCUS at a recent Helena meeting. SEN. BAUCUS was not aware that this had been slipped into the legislation and was now being handed back to the states. If this is allowed to blossom and grow, DNA sampling will be the norm. After that point, what is a nation of free people?

SEN. JABS remarked that nursing homes have a huge turnaround of employees. This will be very cumbersome for them.

CHAIRMAN GROSFIELD referred to page 6 of **Mr. Sklar's** document which stated that the bill simply provides organizations with the option of requesting the checks if there is no law in place precluding them. If Montana has no law affecting this area, it may be necessary to specifically exclude the process.

SEN. BARTLETT added that the amendments placed on the bill provide that the criminal background check is the check that is done in state by the Department of Justice on the basis of name and social security number. This would not involve fingerprints. The title of the bill requires employers who provide in-home care services to conduct a criminal history background check. This could be made permissive to the agency.

Motion/Vote: **SEN. BARTLETT** moved that **SB 403 BE AMENDED ON PAGE 1, LINE 24, BY STRIKING THE WORD "SHALL" AND INSERTING THE WORD "MAY"**. Motion carried unanimously - 8-0.

CHAIRMAN GROSFIELD suggested that requests of fingerprints from applicants be prohibited. He believed the state would still be in compliance with federal law. This would provide direction to the agency.

Motion/Vote: **SEN. BARTLETT** moved that **SB 403 BE AMENDED BY CHANGING THE TITLE TO STATE "AN ACT PERMITTING EMPLOYERS" AND ON LINE 17 THE WORD "REQUIRING" BE REPLACED WITH THE WORD "AUTHORIZING"**. Motion carried unanimously - 8-0.

CHAIRMAN GROSFIELD further suggested a prohibition on requesting applicants to submit fingerprints.

Ms. Lane recommended a separate subsection of Section 2. Subsection (6) could state that an employer may not require or submit fingerprints as part of the background check.

SEN. BARTLETT suggested adding a sentence to the existing (1) of Section 2 which stated the criminal history background check may not include fingerprints, etc.

Ms. Lane advised that the bill is limited to providers of in-home care services and would not apply to nursing homes. The state may want to adopt a provision in the existing criminal justice information laws that fingerprint checks cannot be made of persons providing certain services.

SEN. JABS suggested leaving fingerprints as an option.

CHAIRMAN GROSFIELD believed that the in-home health care services would view this as something that needed to be done for liability purposes.

Motion: **SEN. BARTLETT** moved that **SB 403 BE AMENDED BY ADDING LANGUAGE IN SECTION 2 (1) AND (3) THAT WOULD PROHIBIT THE CRIMINAL HISTORY BACKGROUND CHECK THAT IS PERMITTED BY THE BILL FROM INCLUDING CHECKS MADE ON THE BASIS OF FINGERPRINTS.**

Ms. Lane clarified that on page 1, lines 25 and 30 a new sentence would be added. She would take from the language appearing on page 2, line 13 and 14, which authorized the fingerprint checks and restate it to say, "A background check may not include a background check of national criminal history records based on fingerprints submitted by the applicant to the FBI."

Vote: Motion **carried unanimously -8-0.**

{Tape : 3; Side : A; Approx. Time Counter : 10.35}

Motion: **SEN. BARTLETT** moved that **SB 403 DO PASS AS AMENDED.**

Discussion:

SEN. BARTLETT reported that this bill came out of action at the Legacy Legislature and was introduced by **SEN. STANG** for one of his constituents. She was contacted to sign this bill as a co-sponsor. She told her that she had a problem with the fingerprinting requirements. This was the first time the fingerprint requirements were brought up as a problem. It is clear that Congress is getting a lot of heat out of concern about children, the elderly, and the disabled who are in vulnerable positions. The goal of this legislation is worthy and one we all share and would like to achieve, that is the protection of vulnerable populations. The only thing at issue is the means of achieving that goal.

SEN. HOLDEN maintained that public policy should not be established at either the federal or state level that presumes a person is evil until it can be proven otherwise. Laws should not be passed that state that people are suspected criminals until the government has their social security number, fingerprints, maiden name, address, etc. This is not his vision for the future. Every time someone applies for a job for a non-profit agency, a nursing home, or any service organizations, they should not be seen as evil and wanting to do something wrong to the people in the association.

CHAIRMAN GROSFIELD remarked that travelers in any foreign country, are required to have identification at all times. In most countries, every citizen is required to have an identification card. This country does not have requirements to this degree. This legislation is going down the road toward DNA sampling.

SEN. JABS stated that unfortunately there are a few people who do taken advantage of the vulnerable people in our society.

Vote: Motion carried 7-1 with Holden voting no.

EXECUTIVE ACTION ON SB 402

Motion: SEN. BARTLETT moved that SB 402 BE TABLED.

Discussion:

CHAIRMAN GROSFIELD explained that any bill before this session because of CI-75 does not have a transmittal deadline.

Vote: Motion carried unanimously - 8-0.

EXECUTIVE ACTION ON SB 198

Discussion:

CHAIRMAN GROSFIELD asked the Committee to reconsider its action in tabling SB 198. If **SEN. SWYSGOOD** is agreeable, he would move that SB 198 be taken from the Judiciary Committee and placed in the Senate Finance and Claims Committee. The reason is that Senate Finance and Claims is struggling with issues surrounding the Department of Correction's budget.

If **SEN. SWYSGOOD** doesn't agree to this, the motion will not be made on the Senate Floor and the bill will stay in Committee and miss the transmittal deadline.

Motion/Vote: SEN. MCNUTT moved that **THE COMMITTEE RECONSIDER ITS ACTION IN TABLING SB 198. Motion carried 8-0.**

EXECUTIVE ACTION ON SB 476

Ms. Lane explained that there had been a request for a July 1, 2000 effective date. There were also concerns that the pilot program was statewide and it was suggested that this be pared down to five or six counties. She added that one technical amendment has already been adopted by the Committee.

CHAIRMAN GROSFIELD remarked that Section 2 did not provide any guidelines for the Secretary of State's Office. The reason for the change in the effective date was to give the Secretary of State's Office ample time to work on this with the various stakeholders.

Ms. Lane explained that the termination applies only to Sections 1, 2, 3, and 5 because this involves the pilot program. The only section that wasn't terminated is Section 4 which changes the form.

Motion/Vote: **SEN. MCNUTT** moved that **SB 476 BE AMENDED BY MOVING A DELAYED EFFECTIVE DATE FOR SECTIONS 1, 2, 3, AND 5, TO JULY 1, 2000. Motion carried unanimously -8-0.**

Motion: **SEN. BARTLETT** moved that **SB 476 BE AMENDED.**

Discussion:

SEN. BARTLETT explained that the form that goes to the homeowner should include the information on lines 26, 27, 28, and 29 on page 5. The notice states that this notice has been sent by and then leaves space for the name, address and telephone.

Vote: Motion **carried unanimously - 7-0.**

Motion/Vote: **SEN. DOHERTY** moved that **SB 476 BE AMENDED BY REINSERTING LINES 12 AND 13 ON PAGE 5. Motion carried unanimously - 7-0.**

Motion/Vote: **SEN. MCNUTT** moved that **SB 476 DO PASS AS AMENDED. Motion carried unanimously - 7-0** with **SEN. GRIMES** being excused from the meeting.

ADJOURNMENT

Adjournment: 11:00 A.M.

SEN. LORENTS GROSFIELD, Chairman

JUDY KEINTZ, Secretary

LG/JK

EXHIBIT (jus41aad)